

032204

17157 U.S. PTO

**PATENT**Docket No. 10152

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**NEW APPLICATION TRANSMITTAL**

Transmitted herewith for filing is the patent application of

Inventor(s): Dr. Arthur L. Carlisle*NOTE: Patent must be applied for in the name(s) of all of the actual inventor(s). 37 CFR 1.41 and 1.53(b).****WARNING:** If the named inventors are each not the inventors of all the claims an explanation, including the ownership of the various claims at the time the last claimed invention was made, should be submitted.*For (title): Orthopedic Appliance

Enclosed are:

**1. Benefit of Prior U.S. Application (35 USC 120)***NOTE: If the new application being transmitted is a divisional, continuation or a continuation-in-part of a parent case, e.g., where (1) the parent case is not to be abandoned (e.g., a divisional continuation-in-part) or (2) where the parent case is an International Application which designated the U.S., then check the following item and complete and attach ADDED PAGES FOR NEW APPLICATION TRANSMITTAL.*

- ☐ The new application being transmitted claims the benefit of a prior U.S. application and enclosed is added pages for new application transmittal where benefit of a prior U.S. application claimed.

**2. Papers Required For Filing Date Under 37 CFR 1.53(b):**

- 5 Pages of specification  
1 Pages of Abstract  
3 Pages of claims  
2 Sheets of drawing  
☐ formal  
☒ informal

In addition to the above papers there is also attached:

**CERTIFICATION UNDER 37 CFR 1.10**

I hereby certify that this New Application Transmittal and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date March 19, 2004 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number ER 814049915 US addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Charles R. Sutton  
(Type or print name of person mailing paper)

Charles R. Sutton  
(Signature of person mailing paper)

*NOTE: Each paper or fee referred to as enclosed herein has the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 CFR 1.10(b).*17302 U.S. PTO  
10/805800

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### 3. Declaration or oath

☒ Enclosed

☐ original

executed by (check all applicable boxes)

☒ inventor(s).

☐ legal representative of inventor(s). 37 CFR 1.42 or 1.43.

☐ joint inventor or person showing a proprietary interest on behalf of inventor who refused to sign or cannot be reached.

☐ this is the petition required by 37 CFR 1.47 and the statement required by 37 CFR 1.47 is also attached. See item 10 below for fee.

☐ Not Enclosed.

**WARNING:** Where the filing is a completion in the U.S. of an international application under 35 U.S.C. 371(c)(4) the declaration can be filed after 20 months from the priority date, in which event it **must** be filed within 22 months from the **priority** date with payment of a surcharge and failure to comply with this requirement will result in abandonment of the application. The provisions of § 1.136 do not apply to the 22 month period. 37 CFR 1.61(b).

**NOTE:** Where a declaration is not available or where the completion of the U.S. application contains subject matter in addition to the International Application treat the application being transmitted as a continuation or continuation-in-part, as the case may be, utilizing ADDED PAGE FOR NEW APPLICATION TRANSMITTAL.

☐ Application is made by a person authorized under 37 CFR 1.41(c) on behalf of all the above named inventor(s). The declaration or oath, along with the surcharge required by 37 CFR 1.16(e) can be filed subsequently.

**NOTE:** It is important that all the correct inventor(s) are named for filing under 37 CFR 1.41(c) and 1.53(b).

☐ Showing that the filing is authorized. (Not required unless called into question. 37 CFR 1.41(d).

### 4. Inventorship Statement

The inventorship for all the claims in this application are:

☒ the same

or

☐ are not the same and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

### 5. Language

☒ English

☐ non-English

**NOTE:** An application including a signed oath or declaration may be filed in a language other than English. A verified English translation of the non-English language application and the processing fee of \$26.00 required by 37 CFR 1.17(k) is required to be filed with the application or within such time as may be set by the Office. 37 CFR 1.52(d).

**NOTE:** A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 CFR 1.69(b).

**WARNING:** If the translation of the international application has not been submitted by the applicant within 20 months from the **priority** date, when the filing is a completion in the U.S. of an international application under 35 U.S.C. 371(c)(2), such requirements must be met within 22 months from the **priority** date. The payment of the processing fee set forth in § 1.445(a)(6) is required for acceptance of an English translation later than 20 months after the priority date. Failure to comply with these requirements will result in abandonment of the application. The provisions of § 1.136 do not apply to the 22 month period. 37 CFR 1.61(b). The translation into English need not be verified. 37 CFR 1.61(a). The processing fee for filing the translation after 20 months from the priority date is \$26.00.

☐ A verified English translation of the  
*check applicable item(s)*

☐ specification and claims

☐ declaration

is attached.

## 6. Assignment

☐ An assignment of the invention to \_\_\_\_\_

☐ is attached

☐ will follow

## 7. Certified Copy

*Certified copy(ies) of application(s)*

(country)	(appln. no.)	(filed)
(country)	(appln. no.)	(filed)
(country)	(appln. no.)	(filed)

from which priority is claimed

☐ is attached

☐ will follow

**NOTE:** *Must be referred to in oath or declaration. 37 CFR 1.55(a) and 1.63.*

## 8. Fee Calculation

CLAIMS AS FILED					
Number filed		Number Extra		Rate	Basic Fee
Total Claims	13	- 20 =	0	X	0
Independent Claims	2	- 3 =	0	X	0
Multiple dependent claim(s), if any					0

☐ Amendment cancelling extra claims enclosed

☐ Amendment deleting multiple dependencies enclosed

☐ Fee for extra claims is not being paid at this time

**NOTE:** *If the fee for extra claims are not paid on filing they must be paid or the claims cancelled by amendment, prior to the expiration of the time period set for response by the Patent and Trademark Office in any notice of fee deficiency. 37 CFR 1.16(d).*

Filing Fee Calculation \$ 770.00

## 9. Small Entity Statement

☒ verified statement that this is a filing by a small entity under 37 CFR 1.9 and 1.27 is attached.

Filing Fee Calculation (50% of above) \$ 385.00

**NOTE:** Any excess of the full fee paid will be refunded if a verified statement and a refund request are filed within 2 months of the date of timely payment of a full fee. 37 CFR 1.28(a).

## 10. Fee Payment Being Made At This Time

**WARNING:** Where the filing is a completion in the U.S. of an international application under 35 U.S.C. 371(c)(1) the fee can be filed after 20 months from the priority date, in which event it **must** be filed within 22 months from the **priority** date with payment of a surcharge and failure to comply with this requirement will result in abandonment of the application. The provisions of § 1.136 do not apply to the 22 month period. 37 CFR 1.161(b).

☐ Not Enclosed

☐ No filing fee is to be paid at this time. (This and the surcharge required by 37 CFR 1.16(e) can be paid subsequently.)

☒ Enclosed

☒ basic filing fee \$ 385.00

☐ recording assignment (\$7.00; 37 CFR 1.21(h)(1)) \$ \_\_\_\_\_

☐ petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached. (\$140.00; 37 CFR 1.47 and 1.17(h)) \$ \_\_\_\_\_

☐ for processing an application with a specification in a non-English language. (\$26.00; 37 CFR 1.52(d) and 1.17(k) or 37 CFR 1.445(a)(6)) \$ \_\_\_\_\_

☐ processing and retention fee (\$100.00; 37 CFR 1.53(d) and 1.21(l)) \$ \_\_\_\_\_

**NOTE:** 37 CFR 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 CFR 1.53(d) and this, as well as the changes to 37 CFR 1.53 and 1.78, indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee must be paid or the processing and retention fee of § 1.21(l) must be paid within 1 year from notification under § 53(d).

Total fees enclosed \$ 385.00

## 11. Method of Payment of Fees

☒ check in the amount of \$ 385.00

☐ charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. A duplicate of this transmittal is attached.

**NOTE:** Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 CFR 1.22(b)).

## 12. Authorization to Charge Additional Fees

**NOTE:** If no fees are to be paid on filing the following items should **not** be completed.

**WARNING:** Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges, if extra claim charges are authorized.

- ☐ The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Account No. \_\_\_\_\_:

☐ 37 CFR 1.16 (filing fees)

☐ 37 CFR 1.16 (presentation of extra claims)

**NOTE:** Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 CFR 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

☐ 37 CFR 1.17 (application processing fees)

☐ 37 CFR 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR 1.311(b).

**NOTE:** Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 CFR 1.311(b).

**NOTE:** 37 CFR 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying, . . . issue fee". From the wording of 37 CFR 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

### 13. Instructions As To Overpayment

☐ credit Account No. \_\_\_\_\_

☒ refund

Reg. No. 42,176

Tel. No. (626) 792-7936



**SIGNATURE OF ATTORNEY**

Charles R. Sutton

Type or print name of attorney

201 S. Lake Avenue, Ste. 302

P.O. Address

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- ☐ Plus Added Page For New Application Transmittal Where Benefit Of A Prior U.S. Application Claimed